

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address  JASON L. LIANG (SBN 251235) Email: jliang@lianglylp.com LIANG LY LLP 601 South Figueroa Street Suite 1950 Los Angeles, California 90017 Telephone: (213) 262-8000 Facsimile: (213) 335-7776  <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Anthony J. Pellicano, Debtor	FOR COURT USE ONLY          <div style="border: 1px solid black; padding: 10px; text-align: center;"> <b>FILED</b>          CLERK, U.S. DISTRICT COURT  <div style="border: 1px solid black; padding: 5px; margin: 5px 0; font-size: 1.5em; color: blue;">9/15/22</div>         CENTRAL DISTRICT OF CALIFORNIA          BY: <u>EEE</u> DEPUTY       </div>
<b>UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION</b>	
In re:  ANTHONY JOSEPH PELLICANO    <div style="text-align: right;">Debtor(s).</div>	CASE NO.: 22-bk-10059-BB  ADVERSARY NO.: 22-AP-01081-BB <i>(if applicable)</i>  CHAPTER: 7
COLETTE MCDOUGALL, RICHARD W. COLBURN, CAROL COLBURN GRIGOR, AND KEITH W. COLBURN,  <div style="text-align: right;">Plaintiff(s) <i>(if applicable)</i>.</div> <div style="text-align: center;">vs.</div> ANTHONY JOSEPH PELLICANO    <div style="text-align: right;">Defendant(s) <i>(if applicable)</i>.</div>	<div style="text-align: center; font-size: 1.5em; color: blue; margin-bottom: 20px;">2:22-CV-06591-SSS</div> <div style="text-align: center;"> <b>NOTICE OF APPEAL AND STATEMENT OF ELECTION</b> </div>

**Part 1: Identify the appellant(s)**

1. Name(s) of appellant(s): ANTHONY JOSEPH PELLICANO

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

☐ Plaintiff

☒ Defendant

☐ Other *(describe)*:

For appeals in a bankruptcy case and not in an adversary proceeding.

☐ Debtor

☐ Creditor

☐ Trustee

☐ Other *(describe)*:

**Part 2: Identify the subject of this appeal**

1. Describe the judgment, order, or decree appealed from:
  1. Judgment In Favor Of Plaintiffs And Against Defendant Anthony Joseph Pellicano Determining Non-Dischargeability Pursuant To 11 U.S.C. § 523(a)(6) (Dkt. No. 25)
  2. Order Granting Statement Of Uncontroverted Facts And Conclusions Of Law (Dkt. No. 26)
2. The date the judgment, order, or decree was entered: 08/30/2022

**Part 3: Identify the other parties to the appeal**

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (*attach additional pages if necessary*):

1. Party: See Attachment A  
Attorney:  
See Attachment A

2. Party:  
Attorney:

**Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)**

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

- ☒ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

**Part 5: Sign below**

/S/ JASON L. LIANG Date: 09/08/2022  
Signature of attorney for appellant(s) (or appellant(s)  
if not represented by an attorney)

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

**[Note to inmate filers:** If you are an inmate filer in an institution and you seek the timing benefit of Fed. R. Bankr. P. 8002(c)(1), complete Director's Form 4170 (Declaration of Inmate Filing) and file that declaration along with the Notice of Appeal.]

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:  
601 South Figueroa St. Suite 1950, Los Angeles, CA 90017

A true and correct copy of the foregoing document entitled: **NOTICE OF APPEAL AND STATEMENT OF ELECTION** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) 09/08/2022, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

jeffrey@shinbrotfirm.com

☐ Service information continued on attached page

**2. SERVED BY UNITED STATES MAIL:**

On (date) \_\_\_\_\_, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) \_\_\_\_\_, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

9/8/2022

Date

Marina Ozarzhitskaya

Printed Name

/s/Marina Ozarzhitskaya

Signature

# ATTACHMENT A

### **ATTACHMENT A**

<b>PARTY:</b>	<b>REPRESENTED BY:</b>
Richard W Colburn	Jeffrey S Shinbrot The Shinbrot Firm 15260 Ventura Boulevard Suite 1200 Sherman Oaks, CA 91403 310-659-5444 Fax : 310-878-8304 Email: jeffrey@shinbrotfirm.com
Carol Colburn Grigor	Jeffrey S Shinbrot The Shinbrot Firm 15260 Ventura Boulevard Suite 1200 Sherman Oaks, CA 91403 310-659-5444 Fax : 310-878-8304 Email: jeffrey@shinbrotfirm.com
Keith W Colburn	Jeffrey S Shinbrot The Shinbrot Firm 15260 Ventura Boulevard Suite 1200 Sherman Oaks, CA 91403 310-659-5444 Fax : 310-878-8304 Email: jeffrey@shinbrotfirm.com
Colette McDougall	Jeffrey S Shinbrot The Shinbrot Firm 15260 Ventura Boulevard Suite 1200 Sherman Oaks, CA 91403 310-659-5444 Fax : 310-878-8304 Email: jeffrey@shinbrotfirm.com

# ATTACHMENT B

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Richard W. Colburn, Carol Colburn Grigor  
and Keith W. Colburn

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

In re  
ANTHONY JOSEPH PELLICANO,  
Chapter 7 Debtor.

Case No. 2:22-BK-10059-BB

Chapter 7

Adv. No. 2-22-ap-01081-BB

**JUDGMENT IN FAVOR OF  
PLAINTIFFS AND AGAINST  
DEFENDANT ANTHONY JOSEPH  
PELLICANO DETERMINING NON-  
DISCHARGEABILITY PURSUANT TO  
11 U.S.C. § 523(a)(6)**

COLETTE MCDOUGALL, RICHARD  
W. COLBURN, CAROL COLBURN  
GRIGOR, AND KEITH W.  
COLBURN,

Plaintiffs,

v.

ANTHONY JOSEPH PELLICANO,  
Defendant.

**FILED & ENTERED**

**AUG 30 2022**

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY evangeli DEPUTY CLERK

**Hearing Date/Time/Place**

Date: August 30, 2022

Time: 2:00 p.m.

Place: 255 East Temple Street, Los Angeles,  
California, Courtroom 1539

1 The Court having considered Plaintiffs Colette McDougall, Richard W. Colburn,  
2 Colburn Grigor f/k/a Carol Colburn-Hogel and Keith W. Colburn Motion for Summary  
3 Judgment, the documents and evidence submitted in support thereto, having made the  
4 rulings on the evidentiary objections read into the record at the time of hearing on the  
5 motion, and having issued its statement of uncontroverted facts and conclusions of law,  
6 good cause appearing and notice having been proper, now therefore it is hereby **Ordered,**  
7 **Adjudged and Decreed** as follows

8 1. The Motion for Summary Judgment is granted.  
9 2. Judgment is hereby entered in favor of plaintiffs Collette McDougall,  
10 Richard W. Colburn, Carol Colburn, and Keith W. Colburn and against Anthony Joseph  
11 Pellicano for Exception to Discharge of Debt for Willful and Malicious Injury to Another  
12 pursuant to 11 U.S.C. § 523(a)(6).

13 3. Anthony Joseph Pellicano's debt to plaintiffs Collette McDougall, Richard  
14 W. Colburn, Carol Colburn, and Keith W. Colburn arising from the default judgment  
15 entered against him on November 19, 2012 in the Los Angeles County Superior Court  
16 action entitled McDougall et al. v. Pellicano et al., Case No. BC381720, is non-  
17 dischargeable pursuant to 11 U.S.C. § 523(a)(6).

18 **IT IS SO ORDERED.**

19 #####

20  
21  
22  
23  
24 Date: August 30, 2022



25 Sheri Bluebond  
26 United States Bankruptcy Judge  
27  
28



# ATTACHMENT C

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Counsel for Creditors Colette McDougall,  
Richard W. Colburn, Carol Colburn Grigor  
and Keith W. Colburn

**UNITED STATES BANKRUPTCY COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

In re  
ANTHONY JOSEPH PELLICANO,  
Chapter 7 Debtor.

Case No. 2:22-BK-10059-BB

Chapter 7

Adv. No. 2-22-ap-01081-BB

**STATEMENT OF UNCONTROVERTED  
FACTS AND CONCLUSIONS OF LAW  
ON PLAINTIFFS' MOTION FOR  
SUMMARY JUDGMENT.**

COLETTE MCDOUGALL, RICHARD  
W. COLBURN, CAROL COLBURN  
GRIGOR, AND KEITH W.  
COLBURN,

Plaintiffs,

v.

ANTHONY JOSEPH PELLICANO,

Defendant.

**Hearing Date/Time/Place**

Date: August 30, 2022

Time: 2:00 p.m.

Place: 255 East Temple Street, Los Angeles,  
California, Courtroom 1539



The Court, having reviewed Plaintiffs Colette McDougall (“Colette”), Richard W. Colburn (“Richard W”), Carol Colburn Grigor f/k/a Carol Colburn-Hogel (“Carol”) and Keith W. Colburn (“Keith”) (collectively, “Plaintiffs”) Separate Statement of Undisputed Material Facts and Conclusions of Law in Support of their Motion for Summary Judgment against Anthony Joseph Pellicano (“Pellicano”) and the evidence referred to therein, and having made the rulings on the evidentiary objections read into the record at the time of the hearing, the court adopts the following uncontroverted facts and conclusions of law:

**UNCONTROVERTED FACTS SUPPORTING EVIDENCE**

Uncontroverted Fact	Supporting Evidence
1. Plaintiffs filed suit against defendant/debtor Pellicano and Jacqueline Colburn in the Los Angeles County Superior Court on December 4, 2007 for invasion of privacy (common law), violation of Cal. Penal Code § 637.2, invasion of California Constitutional privacy rights, and intentional infliction of emotional distress, arising out of Pellicano’s alleged wiretapping and unauthorized recording of Plaintiff’s telephone conversations at the behest of co-defendant Jacqueline Colburn. The matter was entitled <i>McDougall et al. v. Pellicano et al.</i> , Los Angeles County Superior Court Case No. BC381720 (the “Superior Court Action”).	Declaration of Lawrence Segal (“Segal Decl.”), ¶ 1 & Exh. A [original Complaint]; Request for Judicial Notice (“RFJN”), ¶ 1.
2. On April 27, 2010, Plaintiffs were granted leave to amend their pleading, and their previously lodged First Amended Complaint was deemed filed in the Superior Court Action.	See Segal Decl., ¶ 2 & Exh. B [First Amended Complaint]; RFJN, ¶ 2.
3. Pellicano was personally served with the Summons on First Amended Complaint but did not file a responsive pleading, and his default was entered.	See Segal Decl., ¶¶ 3-4, 10 & Exhs. C [Proof of Service of Summons/FAC], D [Request to Enter Default], and L [Judgment at 2:16-20 thereof]; RFJN, ¶¶ 3, 4, and 9.
4. Plaintiffs proceeded to litigate the Superior Court Action against Pellicano’s co-defendant Jacqueline Colburn, and the case went to trial in October 2012. On October 19, 2012, a California state court jury unanimously awarded Plaintiffs \$3.895	See Segal Decl., ¶¶ 5-8 & Exhs. E-G [Special Verdict Forms], collectively; RFJN, ¶¶ 5-7.

1	million in damages resulting from Pellicano's illegal	
2	wiretapping and recording of their telephone	
3	conversations, undertaken by Pellicano on behalf of	
4	his co-defendant Jacqueline Colburn. The verdict was	
5	supported by special factual findings.	
6	5. On November 6, 2012, following the jury trial	See Segal Decl., ¶ 9 & Exhs. H-
7	against Jacqueline Colburn, Plaintiffs filed supporting	K [default judgment prove-up
8	papers in the Superior Court Action to request entry of	documents]; RFJN, ¶ 8.
9	a default <i>judgment</i> against Pellicano. Among those	
10	documents were a Summary of Case, a Request for	
11	Judicial Notice, a Request for Default Judgment, and a	
12	Proof of Service of the foregoing documents showing	
13	that they were served by mail on Pellicano.	
14	6. On November 19, 2012, the California state	See Segal Decl., ¶ 10 & Exh. L
15	court entered judgment in the Superior Court Action –	[Judgment], at 2:21-3:22
16	including judgment by default against Pellicano, based	thereof; RFJN, ¶ 9.
17	on the very same evidence presented at trial against	
18	Pellicano's client and co-defendant Jacqueline	
19	Colburn.	
20	7. On November 21, 2012, Pellicano was served	See Segal Decl., ¶ 11 & Exh. M
21	with notice of entry of judgment.	[Notice of Entry of Judgment,
22		including proof of service];
23		RFJN, ¶ 10.
24	8. The Special Verdict Forms completed by the	See Segal Decl., ¶ 6 & Exh. E
25	jury in the state court action contain express factual	[Special Verdict Form No. 2], at
26	findings about Pellicano's activity on behalf of	pp. 2-3 thereof; RFJN, ¶ 5.
27	Jacqueline Colburn. Specifically, Special Verdict	(Emph. added).
28	Form No. 2 (completed by the trial jury and signed by	
	the Presiding Juror) includes the following:	
	1. Did Anthony Pellicano on	
	behalf of Jacqueline Colburn	
	<b>intentionally eavesdrop on or record</b>	
	<b>Richard W. Colburn's conversation</b>	
	by using an electronic device?	
	[Jurors checked "Yes" as their	
	answer]	
	...	
	3. Did Anthony Pellicano on	
	behalf of Jacqueline Colburn have the	
	consent of all parties to the conversation	
	to eavesdrop on or record it?	

1		
2	[Jurors checked “No” as their	
3	answer]	
4		
5	4. How many of Richard W.	
6	Colburn’s telephone communications to	
7	or from the telephone lines at 1120 La	
8	Collina Drive [the Residence] were	
9	eavesdropped upon, recorded, and/or	
10	wiretapped by Anthony Pellicano acting	
11	on Jacqueline Colburn’s behalf?	
12		
13	Insert number of calls here:	
14	[Jurors hand-wrote “289”].	
15	9. The jury’s responses and factual findings as to	See <i>id.</i> , at pp. 4-9 thereof.
16	Pellicano’s wiretapping, eavesdropping, and recording	
17	were the same for each of the four Plaintiffs, with the	
18	only difference being that the exact number of	
19	wiretapped, eavesdropped, and/or recorded telephone	
20	calls varied for each Plaintiff.	
21	10. Similarly, Special Verdict Form No. 3	See Segal Decl., ¶ 7 & Exh. F
22	(completed by the trial jury and signed by the	[Special Verdict Form No. 3], at
23	Presiding Juror) includes the following:	pp. 2-3 thereof; RFJN, ¶ 6.
24	2. Did Anthony Pellicano on	(Emph. added).
25	behalf of Jacqueline Colburn	
26	<b>intentionally intrude</b> in Richard W.	
27	Colburn’s telephone calls to and from	
28	the residence and home office of his	
	father Richard D. Colburn?	
	[Jurors checked “Yes” as their	
	answer]	
	...	
	3. Would Anthony	
	Pellicano’s intrusion on behalf of	
	Jacqueline Colburn be <b>highly offensive</b>	
	to a reasonable person?	
	[Jurors checked “Yes” as their	
	answer]	
	...	

1		
2	4. Was Anthony Pellicano's	
3	conduct on behalf of Jacqueline Colburn	
4	a <b>substantial factor in causing harm</b> to	
5	Richard W. Colburn?	
6	[Jurors checked "Yes" as their	
7	answer]	
8	11. The jury made identical factual findings as to	See Segal Decl., ¶ 7 & Exh. F
9	Pellicano's intentional intrusion and highly offensive	[Special Verdict Form No. 3], at
10	conduct as to all four of the Plaintiffs.	pp. 4-9 thereof; RFJN, ¶ 6.
11	12. On November 19, 2012, the California state	See Segal Decl., ¶ 10 & Exh. L
12	court entered judgment in the Superior Court Action –	[Judgment], at 2:16-27 thereof;
13	including judgment by default against Pellicano.	RFJN, ¶ 9.
14	Regarding Pellicano, that judgment states in pertinent	
15	part:	
16	As to defendant Anthony	
17	Pellicano, the Court finds that Anthony	
18	Pellicano was properly served with a	
19	copy of the Summons on First Amended	
20	Complaint and First Amended	
21	Complaint filed by Plaintiffs in this	
22	action, that Anthony Pellicano failed to	
23	answer the First Amended Complaint or	
24	appear and defend the action within the	
25	time allowed by law, and that Anthony	
26	Pellicano's default was entered by the	
27	clerk upon Plaintiffs' application.	
28	In connection with the requested	
	default judgment against Anthony	
	Pellicano, the Court considered: (a)	
	Plaintiffs' Request for Entry of Default	
	Judgment; (b) Plaintiffs' Summary of	
	Case in Support of Entry of Default	
	Judgment Against Anthony Pellicano;	
	and (c) the testimony given and the	
	exhibits admitted into evidence at the	
	trial of Jacqueline Colburn (in lieu of	
	additional declarations, affidavits or live	
	testimony duplicative of said trial	
	testimony and evidence), and (d) other	
	items of which Plaintiffs requested that	
	the Court consider and/or take judicial	

1	notice.	
2	13. The judgment in the Superior Court Action	See Segal Decl., ¶ 10 & Exh. L
3	awarded compensatory damages in favor of each of	[Judgment], at 2:28-3:22
4	the four separate Plaintiffs, and against Jacqueline	thereof; RFJN, ¶ 9.
5	Colburn and Pellicano, jointly and severally, based on	
6	the jury's findings, namely \$1,030,000 to Collette	
7	McDougall, \$445,000 to Carol Colburn-Grigor,	
8	\$1,595,000 to Richard W. Colburn, and \$825,000 to	
9	Keith W. Colburn, which included a jury award of	
10	\$150,000 each for emotional distress.	
11	14. In their First Amended Complaint in the	See Segal Decl., ¶ 2 & Exh. B
12	Superior Court Action, Plaintiffs alleged that (a)	[First Amended Complaint], at
13	Pellicano, on behalf of his client Jacqueline Colburn,	¶¶ 10-25 thereof; RFJN, ¶ 2.
14	wiretapped the telephone lines at the residence of	
15	Richard D. Colburn (father of three of the Plaintiffs	
16	and employer of the fourth) (the "Residence"); and	
17	that (b) Pellicano wiretapped the Residence and	
18	recorded telephone calls (to which the Plaintiffs were	
19	parties) to and from the Residence, and then shared	
20	those recordings with Jacqueline Colburn.	
21	15. Pellicano was personally served with a	See Segal Decl., ¶ 3 & Exh. C
22	Summons and Plaintiffs' First Amended Complaint in	[Proof of service of process];
23	connection with the Superior Court Action.	RFJN, ¶ 3.
24	16. The Judgment entered in the Superior Court	See Segal Decl., ¶ 10 & Exh. L
25	Action expressly states that "the Court finds that	[Judgment], at 2:16-18 thereof;
26	Anthony Pellicano was properly served with a copy of	RFJN, ¶ 9.
27	the Summons on First Amended Complaint and First	
28	Amended Complaint filed by Plaintiffs in this	
	action..."	
	17. In the Superior Court Action trial (which	See Segal Decl., ¶ 5.
	spanned nine court days), Plaintiffs presented	
	testimony from more than 12 witnesses (including	
	former Pellicano employees, a wiretapping expert, and	
	a former FBI agent who was able to decrypt certain	
	recordings seized from Pellicano's offices), and	
	introduced 47 exhibits.	
	18. Pellicano did not appeal the Default Judgment.	See Segal Decl., ¶ 12.



**CONCLUSIONS OF LAW**

1  
2 1. The issues decided by the Default Judgment in the Superior Court Action, as  
3 framed by the First Amended Complaint and decided at trial, are the same issues for  
4 which Plaintiffs now seek preclusion from relitigation in this proceeding.  
5

6 2. The Default Judgment against Pellicano and the factual findings in the Special  
7 Verdict Forms in the Superior Court Action decided and resolved the issue of whether  
8 Pellicano acted “with the actual intent to cause injury” to Plaintiffs in the manner alleged  
9 by Plaintiffs in their adversary Complaint. That issue was decided in the affirmative, as  
10 demonstrated by the Default Judgment and the Special Verdict Forms, which found that  
11 (a) Pellicano intended to intrude upon the privacy of each of the Plaintiffs, (b) his actions  
12 were highly offensive, and (c) his actions were a substantial factor in causing harm to each  
13 of the Plaintiffs. [*Baldwin v. Kilpatrick (In re Baldwin)*, 249 F.3d 912, 917-918 (9th Cir.  
14 2001) (threshold factor no. 1: identical issue)].  
15  
16

17 3. In the Superior Court Action, the jury made express findings on the same set of  
18 issues for which Plaintiffs now seek preclusion; that set of issues was actually litigated in  
19 the prior proceeding.  
20

21 4. The Superior Court Action jury found that Pellicano, on behalf of Jacqueline  
22 Colburn, intentionally eavesdropped on or recorded Plaintiffs’ conversations by using an  
23 electronic device, without Plaintiffs’ consent.  
24

25 5. The jury in the Superior Court Action also found that Pellicano, on behalf of  
26 Jacqueline Colburn, intentionally intruded in Plaintiffs’ telephone calls in a manner highly  
27 offensive to a reasonable person, thereby causing harm to Plaintiffs. The Los Angeles  
28



1 Superior Court then entered Default Judgment against Pellicano based upon those  
2 findings. [*Baldwin, supra*, 249 F.3d at 917-918 (threshold factor no. 2: issue was actually  
3 litigated in former proceeding)].

4  
5 6. The factual findings entered in the Superior Court are consistent with a finding of  
6 “actual intent to cause injury” under 11 U.S.C. § 523(a)(6). [*Kawaauhau v. Geiger*, 523  
7 U.S. 57, 61, 118 S.Ct. 974, 977, 140 L.Ed.2d 90 (1998) (an act falls under the “willful and  
8 malicious injury” discharge exception if the act was “done with the actual intent to cause  
9 injury”)].

10  
11 7. The issues on which Plaintiffs seek preclusion were necessarily decided in the  
12 Superior Court Action, as demonstrated by the Special Verdict Forms and the Default  
13 Judgment entered against Pellicano.

14  
15 8. The Special Verdict Forms completed by the jury in the Superior Court Action  
16 contain the jury’s express findings as to what Pellicano himself did, as to each separate  
17 Plaintiff, entitling each to monetary damages commensurate with the number of proven  
18 wiretapped, recorded, or eavesdropped-upon telephone calls, plus \$150,000 per Plaintiff  
19 in emotional distress damages. [*Baldwin, supra*, 249 F.3d at 917-918 (threshold factor no.  
20 3: issue was necessarily decided in former proceeding)].

21  
22 9. The Default Judgment entered against Pellicano in the Superior Court Action is a  
23 judgment on the merits under California law, and it is final because it is no longer subject  
24 to appeal. [*Fitzgerald v. Herzer*, 78 Cal.App.2d 127, 131-132, 177 P.2d 364, 366 (1947);  
25 *Morris v. McCauley’s Quality Transmission Service*, 60 Cal.App.3d 964, 973, 132  
26 Cal.Rptr. 37 (1976); California Rule of Court 8.104(a)(1)(B) (time to appeal); *Baldwin*,

1 *supra*, 249 F.3d at 917-918 (threshold factor no. 4: decision in former proceeding is final  
2 and on the merits)].

3  
4 10. The defendant against whom the Default Judgment was entered in the Superior  
5 Court Action is the same Anthony Pellicano who is the debtor in this bankruptcy  
6 proceeding, and the Plaintiffs in the state court proceeding are the same Plaintiffs here.  
7 [*Baldwin, supra*, 249 F.3d at 917-918 (threshold factor no. 5: same party)].

8  
9 11. Pellicano was personally served with the Summons and First Amended Complaint  
10 for the Superior Court Action and had actual knowledge of the existence of that action,  
11 and had a fair opportunity to litigate. [*In re Cantrell*, 329 F.3d 1119, 1123-1124 (9th Cir.  
12 2003) (default judgment factor no. 1: defendant personally served with summons or had  
13 actual knowledge of existence of prior litigation and had fair opportunity to litigate)].

14  
15 12. The record of the Superior Court Action shows express factual findings with  
16 respect to the allegations for which preclusion is sought.

17 13. The Special Verdict Forms and Default Judgment in the Superior Court Action  
18 establish express findings that Pellicano illegally wiretapped the Residence on behalf of  
19 Jacqueline Colburn, wiretapped and/or recorded Plaintiffs' private telephone calls,  
20 intended to intrude upon the privacy of Plaintiffs in a highly offensive manner, and shared  
21 recordings of those calls with Jacqueline Colburn. [*Cantrell, supra*, 329 F.3d at 1123-  
22 1124 (default judgment factor no. 2: record of prior proceeding shows either express  
23 findings upon allegations for which preclusion is sought, or that court in the prior  
24 proceeding necessarily decided the issue)]. Therefore Pellicano's intention to cause injury  
25 to Plaintiffs was established in the Superior Court Action.  
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1 14. Granting preclusive effect to the Default Judgment entered in the Superior Court  
2 Action would further the applicable public policies by:

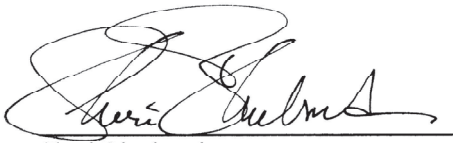
- 3 (a) Eliminating the possibility of inconsistent verdicts and thereby enhancing the  
4 public's confidence in the judicial system; there is no reason for this Court to  
5 relitigate or retry the question of whether Pellicano illegally wiretapped and  
6 recorded Plaintiffs' telephone calls, or whether Pellicano intended to intrude  
7 upon Plaintiffs' privacy in a highly offensive manner.  
8  
9 (b) Principles of comity and federalism would best be served by following  
10 California law regarding the preclusive effect of default judgments;  
11  
12 (c) Judicial economy would best be served by giving preclusive effect to the  
13 Default Judgment entered in the Superior Court Action; and  
14  
15 (d) Giving preclusive effect to the Default Judgment would protect Plaintiffs from  
16 duplicative litigation in that it would be unfair to require Plaintiffs to relitigate  
17 in this Court what was already fully litigated and decided after trial by jury in  
18 the Superior Court Action, especially when Pellicano could have participated in  
19 that action, but chose not to. [*Baldwin, supra*, 249 F.3d at 919 (public policies  
20 underlying the doctrine of collateral estoppel)].  
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1 15. Judgment should be entered in Plaintiffs' favor, determining that Pellicano's debt  
2 arising from the Default Judgment in the Superior Court Action is non-dischargeable  
3 pursuant to 11 U.S.C. § 523(a)(6).  
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5 **IT IS SO ORDERED.**

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24 Date: August 30, 2022

25   
26 Sheri Bluebond  
27 United States Bankruptcy Judge  
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